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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,244	11/25/2003	Naohiro Takeshita	10517/192	4342
23838	7590	09/06/2007	EXAMINER	
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			DOVE, TRACY MAE	
ART UNIT		PAPER NUMBER		
1745				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/720,244	TAKESHITA ET AL.
	Examiner	Art Unit
	Tracy Dove	1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 July 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

This Office Action is in response to the communication filed on 7/2/07. Applicant's arguments filed on 3/5/07 have been considered, but are not persuasive. Claims 1-13 and 15-20 are pending. Claims 15-20 are withdrawn as being directed toward a nonelected invention. This Action is FINAL, as necessitated by amendment.

Election/Restrictions

Applicant's election with traverse of Group I, claims 1-13, in the reply filed on 7/2/07 is acknowledged. The traversal is on the ground(s) that a search of all claims could be made without serious burden. This is not found persuasive because fuel cell separators having different characteristics would require separate searches that would place a serious search burden upon the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for 1) a fuel cell stack comprising a first plurality of cells having a first pressure loss and a second plurality of cells having a second pressure loss wherein the second pressure loss is less than the first pressure loss and/or 2) a fuel cell stack comprising a first plurality of cells having a first water proofing and a second plurality of cells having a second water proofing wherein the second water proofing prevents flooding more than the first water

proofing, does not reasonably provide enablement for a fuel cell stack having any kind of fuel cells having any of an infinite number of different characteristics. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. At least claim 1 recites fuel cell blocks having *different characteristics*, which is overly broad.

Claim 2 that recites "the same characteristics" is similarly rejected. The term is overly broad and is not enabled by the specification.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation "the cell block". There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the water proof cell". There is insufficient antecedent basis for this limitation in the claim. Examiner suggests "the waterproof cell block".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamada et al., JP 2001-357869.

Hamada teaches a solid high polymer type fuel cell stack in which performance of unit cells at the two ends of the stack are prevented from dropping. The fuel cell stack is structured such that a plurality of unit cells are laid one over another according to one of the following: 1) the water repellency of the cathode gas diffusion layer of each unit cell located at the stack ends is made lower than that of the unit cells located elsewhere in the stack; 2) the gas permeability of the cathode gas diffusion layer of each unit cell located at the ends is made higher than that of the unit cells located elsewhere in the stack; 3) the specific surface area of the carbon material of the mixture layer in the cathode of each unit cell located at the ends is made greater than that of the unit cells located elsewhere in the stack; and, 4) the pressure loss in the cathode side gas passage of each unit cell located at the ends is made smaller than that of the unit cells located elsewhere in the stack (abstract). The depth of a separator of a cell unit located at an end of the stack is increased by 10% compared with a gas passageway of a single cell located in other parts of the stack (0031). Reactant gas is supplied from the clamping plates located at both ends of the stack (0013). Thus the claims are anticipated.

*

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakai, JP 63-119166.

Sakai teaches a fuel cell stack wherein the reliability and performance of the fuel cell is improved by increasing a cross-sectional area of the fuel gas flow passage in a unit cell located at a lower part of a layered stack. See the Figures. Thus the claims are anticipated.

Response to Arguments

Applicant's arguments filed 3/5/07 have been fully considered but they are not persuasive.

Applicant argues neither Hamada nor Sakai disclose a separator having ribs that are formed along a groove of a gas passage of the separator. Further asserted, neither reference disclose a pitch between the ribs of one cell unit being different from a pitch between the ribs of another cell block. Applicant asserts Hamada discloses that the cell units located in the ends of the fuel stack may have grooves of a gas passage of a separator which are deeper than cell units located elsewhere on the fuel stack. Applicant then concludes Hamada increases the depth of the groove in the separators of the cell, which requires an increase in the thickness of the separator. However, these assertions are not supported. Applicant has not supported the assertion that an increase in the depth of a separator groove requires an increase in the thickness of the separator. Furthermore, Hamada teaches a solid high polymer type fuel cell stack in which performance of unit cells at the two ends of the stack are prevented from dropping. The fuel cell stack is structured such that a plurality of unit cells are laid one over another according to one of the following: 1) the water repellency of the cathode gas diffusion layer of each unit cell located at the stack ends is made lower than that of the unit cells located elsewhere in the stack; 2) the gas permeability of the cathode gas diffusion layer of each unit cell located at the ends is made higher than that of the unit cells located elsewhere in the stack; 3) the specific surface area of the carbon material of the mixture layer in the cathode of each unit cell located at the ends is made greater than that of the unit cells located elsewhere in the stack; and, 4) the pressure loss in the cathode side gas passage of each unit cell located at the ends is made smaller than that of the unit

cells located elsewhere in the stack (abstract). The depth of a separator of a cell unit located at an end of the stack is increased by 10% compared with a gas passageway of a single cell located in other parts of the stack (0031). See Figure 1 of Hamada.

Furthermore, Sakai teaches a fuel cell stack wherein the reliability and performance of the fuel cell is improved by increasing a cross-sectional area of the fuel gas flow passage in a unit cell located at a lower part of a layered stack. See the Figures. Therefore, Sakai does teach the cross-sectional area of the gas passage is increased.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracy Dove whose telephone number is 571-272-1285. The examiner can normally be reached on Monday-Thursday (9:00-7:30).

Art Unit: 1745

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 4, 2007



TRACY DOVE
PRIMARY EXAMINER